

AMENDED IN ASSEMBLY AUGUST 14, 2006

AMENDED IN SENATE MARCH 20, 2006

SENATE BILL

No. 1248

Introduced by Senator Alquist

(Principal coauthor: Assembly Member Lieber)

(~~Coauthor: Senator Kuehl~~ Coauthors: *Senators Chesbro, Figueroa, and Kuehl*)

(Coauthors: Assembly Members ~~Jones and Koretz~~ *Berg, Cohn, Jones, Koretz, and Laird*)

February 8, 2006

An act to amend Section 1599.1 of the Health and Safety Code, relating to long-term health care facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1248, as amended, Alquist. Long-term health care facilities: resident rights.

Existing law provides for the licensure and regulation by the State Department of Health Services of skilled nursing and intermediate care facilities. Existing law requires that written policies regarding the rights of patients be established and made available by such a facility to the patient, to any guardian, next of kin, sponsoring agency, or representative payee, and to the public. Existing law requires those policies and procedures to ensure that each patient admitted to the facility has certain rights and is notified of certain facility obligations, in addition to those specified by regulation.

This bill would require, as of July 1, 2007, that those written policies and procedures ensure, in addition, that specified federal regulations regarding the rights of residents in long-term care facilities and the duties of those facilities toward their residents are applied to

the skilled nursing facility or intermediate care facility, regardless of a resident's payment source or the Medi-Cal or Medicare certification status of the facility in which the resident resides, except as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1599.1 of the Health and Safety Code is
2 amended to read:

3 1599.1. Written policies regarding the rights of patients shall
4 be established and shall be made available to the patient, to any
5 guardian, next of kin, sponsoring agency or representative payee,
6 and to the public. Those policies and procedures shall ensure that
7 each patient admitted to the facility has the following rights and
8 is notified of the following facility obligations, in addition to
9 those specified by regulation:

10 (a) The facility shall employ an adequate number of qualified
11 personnel to carry out all of the functions of the facility.

12 (b) Each patient shall show evidence of good personal hygiene
13 and be given care to prevent bedsores, and measures shall be
14 used to prevent and reduce incontinence for each patient.

15 (c) The facility shall provide food of the quality and quantity
16 to meet the patients' needs in accordance with physicians' orders.

17 (d) The facility shall provide an activity program staffed and
18 equipped to meet the needs and interests of each patient and to
19 encourage self-care and resumption of normal activities. Patients
20 shall be encouraged to participate in activities suited to their
21 individual needs.

22 (e) The facility shall be clean, sanitary, and in good repair at
23 all times.

24 (f) A nurses' call system shall be maintained in operating
25 order in all nursing units and provide visible and audible signal
26 communication between nursing personnel and patients.
27 Extension cords to each patient's bed shall be readily accessible
28 to patients at all times.

29 (g) (1) If a facility has a significant beneficial interest in an
30 ancillary health service provider or if a facility knows that an
31 ancillary health service provider has a significant beneficial
32 interest in the facility, as provided by subdivision (a) of Section

1 1323, or if the facility has a significant beneficial interest in
2 another facility, as provided by subdivision (c) of Section 1323,
3 the facility shall disclose that interest in writing to the patient, or
4 his or her representative, and advise the patient, or his or her
5 representative, that the patient may choose to have another
6 ancillary health service provider, or facility, as the case may be,
7 provide any supplies or services ordered by a member of the
8 medical staff of the facility.

9 (2) A facility is not required to make any disclosures required
10 by this subdivision to any patient, or his or her representative, if
11 the patient is enrolled in an organization or entity that provides or
12 arranges for the provision of health care services in exchange for
13 a prepaid capitation payment or premium.

14 (h) (1) If a resident of a long-term health care facility has
15 been hospitalized in an acute care hospital and asserts his or her
16 rights to readmission pursuant to bed hold provisions, or
17 readmission rights of either state or federal law, and the facility
18 refuses to readmit him or her, the resident may appeal the
19 facility's refusal.

20 (2) The refusal of the facility as described in this subdivision
21 shall be treated as if it were an involuntary transfer under federal
22 law, and the rights and procedures that apply to appeals of
23 transfers and discharges of nursing facility residents shall apply
24 to the resident's appeal under this subdivision.

25 (3) If the resident appeals pursuant to this subdivision, and the
26 resident is eligible under the Medi-Cal program, the resident
27 shall remain in the hospital and the hospital may be reimbursed at
28 the administrative day rate, pending the final determination of the
29 hearing officer, unless the resident agrees to placement in another
30 facility.

31 (4) If the resident appeals pursuant to this subdivision, and the
32 resident is not eligible under the Medi-Cal program, the resident
33 shall remain in the hospital if other payment is available, pending
34 the final determination of the hearing officer, unless the resident
35 agrees to placement in another facility.

36 (5) If the resident is not eligible for participation in the
37 Medi-Cal program and has no other source of payment, the
38 hearing and final determination shall be made within 48 hours.

39 (i) Effective July 1, 2007, Sections 483.10, 483.12, 483.13,
40 and 483.15 of Title 42 of the Code of Federal Regulations *in*

1 *effect on July 1, 2006*, shall apply to each skilled nursing facility
2 and intermediate care facility, regardless of a resident's payment
3 source or the Medi-Cal or Medicare certification status of the
4 skilled nursing facility or intermediate care facility in which the
5 resident resides, except that a noncertified facility is not
6 obligated to provide notice of Medicaid or Medicare benefits,
7 covered services, or eligibility procedures.

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